

LOCKHEED MARTIN

Lockheed Martin Space Systems Company,
Environment, Safety & Health, O/EK-10, B/157
P.O. Box 3504, Sunnyvale, California 94088-3504
Phone: (409) 756-0538
Fax: 756-0504

September 15, 2003
20030141

Mr. Ron Leach
Region 9 RFA Work Assignment Manager
United States Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

SUBJECT: Information Request and RCRA Facility Assessment

REFERENCE: USEPA letter "Information Request and RCRA Facility Assessment for Lockheed Martin Facility, Sunnyvale, California, dated August 12, 2003

US EPA, CRWQCB, and Lockheed Martin Meeting in Oakland, CA on January 21, 2003

Dear Mr. Leach:

Lockheed Martin is in receipt of the above-referenced letter requesting a 2-day site visit and file review with the intention of performing a RCRA Facility Assessment (RFA) at the Lockheed Martin facility located in Sunnyvale California. Lockheed Martin has substantial concerns regarding this request, set forth below.

Important Background Information

In light of US EPA's stated position in your August 12, 2003 letter, Lockheed Martin believes that you may not be aware of the extensive history of the US EPA and Cal-EPA oversight of Lockheed Martin's compliance with the US EPA-approved California corrective action program. The Lockheed Martin Sunnyvale facility filed an application for interim status under both the US EPA and California interim status programs back in 1980, it has been regulated under both programs and when we ceased engaging in regulated activity back in the mid-1990s, we began the process of completing our corrective action obligations under applicable law. Below is brief chronology of a few key points of that history:

- 1980 – Lockheed Martin applies for interim status from both US EPA and California.
- 1990 – Ecology and Environment (E&E) under subcontract from US EPA perform preliminary assessment of the facility.

- 1993 to date – Lockheed Martin implements groundwater extraction remedy for the entire Sunnyvale site under Cal-EPA oversight.
- 1996 – Cal-EPA confirms that Lockheed Martin is no longer engaging in regulated activities at the site.
- 1997 – Lockheed Martin submits completed RCRA Facility Assessment questionnaire to Cal-EPA and incorporates findings from E&E's report.
- 1998/1999 – US EPA and Cal-EPA identify specific sites that are under Cal-EPA jurisdiction and overseen by the Bay Area Regional Water Quality Control Board ("Regional Board"), including the Lockheed Martin Sunnyvale site, and identify remaining tasks to confirm that the work being done is RCRA equivalent and analogous. The Regional Board commits that, with respect to all of the information on the Sunnyvale facility, "[w]e will review this material over the next three months to determine if an RFA is needed, and will communicate our conclusions to DTSC." A copy of a memorandum confirming this is attached.
- 1999 – Cal-EPA issues groundwater source identification and characterization study requirement and makes clear that the effort will be coordinated with all affected Cal-EPA agencies so that it will qualify as "RCRA analogous" under California Health & Safety Code Section 25204.6(b). Under the Cal-EPA order, Lockheed Martin performs additional soil and groundwater potential source identification and characterization evaluation (expenditure of \$87,000).
- Throughout 2000 – Cal-EPA issues site-wide Draft Tentative Order - Site Cleanup Requirements ("SCRs"), Order No. 00-124, to Lockheed Martin for Sunnyvale and advises Lockheed Martin that it considers Lockheed Martin to be subject to RCRA corrective action requirements but that it will follow the RCRA analogous provisions of state law in California Health & Safety Code Section 25204.6(b). As a result, Lockheed Martin is required to follow additional steps including public notice and a public hearing on November 2, 2000, of which US EPA was notified.
 - June 15, 2000 – Cal-EPA issues site-wide Draft Tentative Order - Site Cleanup Requirements ("SCRs"), Order No. 00-124 to US EPA containing confirmation of the approval of the Lockheed Martin RFA under the RCRA analogous program to US EPA (Ray Saracino and Jennifer Wu) for review and comment.
 - August 4, 2000 – Rich Vaille, with US EPA, writes to Cal-EPA confirming USEPA's view that the Lockheed Martin facility is subject to corrective action.
 - November 29, 2000 – Regional Board public hearing where the updated SCRs are adopted. The final SCRs confirm Lockheed Martin's completion of the RCRA analogous RFA requirements. This adoption reflects Cal-EPA's response to the 1998 commitment to review the need for an RFA.
- July 25, 2001 - Environmental Indicator Determinations performed and documented by Cal-EPA as in compliance with RCRA corrective action.

This brief summary of the extensive history of Lockheed Martin's efforts to comply with the corrective action requirements of both Cal-EPA and US EPA confirm that on more than one occasion US EPA has had an opportunity to participate, and indeed has participated, in the corrective action program for the facility. Perhaps most notably, apparently in October 1998 US EPA specifically reviewed the facility's oversight by the Regional Board and gave comments to the Regional Board in order to ensure that Lockheed Martin's efforts met *both* USEPA and Cal-EPA RCRA analogous corrective action. In that 1998 document, the Regional Board then committed to a three-month time period to advise if the facility needed a full RFA. To our knowledge, no such request came from the Regional Board.

In addition, two years later, US EPA was afforded another opportunity to comment and participate in the corrective action process through the Updated SCR. US EPA chose not to involve itself in providing comments or concerns.

In light of this history Lockheed Martin is both confused and concerned about your August 12 request since it appears to be duplicative of work long since completed and it also appears to ignore the long history of US EPA involvement in the process, along with Regional Board confirmation that an RFA was previously addressed.

RCRA Corrective Action Authority

In our meeting with you earlier this year, we asked for the specific authority that US EPA was relying upon in support of its request to initiate the RCRA Facility Assessment all over again for our facility. Your letter only makes reference to the general information gathering provisions of RCRA in Section 3007, 42 USC Section 6927, and not the specific corrective action program provisions. As a result, we remain unclear about the authority that USEPA is acting under, and where the inquiry is heading.

We understand that the USEPA has granted authorization to California's hazardous waste management program under RCRA, which includes California's corrective action program. As we understand it, that means that California is authorized to operate its corrective action program "in lieu of" the Federal corrective action program. (RCRA § 3006, 42 USC § 6926(b).) While there are provisions for separate US EPA enforcement of RCRA in certain unique circumstances, such as when it has made a finding that a state is not actually implementing an approved program, we don't understand US EPA to be acting under any of those exceptions here.

Information Request

As we advised you previously, US EPA information needs for Solid Waste Management Units (SWMUs) listed in your August 12 letter can be addressed through file review at the applicable regulatory agencies. During the above referenced January meeting, US EPA committed to perform an extensive file review to substantially narrow the SWMUs of interest. However, it is Lockheed Martin's understanding that, by way of example only, the Sunnyvale Department of Public Safety, Fire and Environmental Services Unit files have not been reviewed regarding information relevant to the listed SWMUs.

We continue to believe that if Booz Allen continues their file review, you will be satisfied that the elements of an RFA have been successfully addressed and the SWMUs appropriately closed.

Conclusion

Lockheed Martin has complied with all of the corrective action and site cleanup requirements, and all provisions of the "RCRA Analogous" process, including the specific additional items requested by US EPA in 1998 in their report to the Regional Board. Now, US EPA's request to revisit the compilation of information for an RFA duplicates the authorized agencies' previous requests for, and compilations of, information. Further, in light of the extensive historic involvement US EPA has had in the process, and the US EPA's notice of and decision not to involve itself at critical moments in the process, the current US EPA request leaves Lockheed Martin unclear as to the respective roles of the Cal-EPA and US EPA in the past, as well as the future.

We urge US EPA to revisit its decision to conduct an RFA, as stated in the August 12, 2003 letter in light of its significant involvement in this site and the substantial historical and ongoing oversight of the California State authorities under California's approved corrective action program.

Sincerely,



Allen J. Lund
LOCKHEED MARTIN SPACE SYSTEMS COMPANY
Environment, Safety & Health

Enclosure

cc:

Mark Posson, Director, ESH
Ron Duncan, Manager, ESH
Alec Naugle, CRWQCB



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 ~ FAX (510) 622-2460



Gray Davis
Governor

TO: Lisa Babcock
SWRCB - Clean Water Programs

FROM: 
Loretta M. Benjamin
Executive Officer
SAN FRANCISCO BAY REGIONAL
WATER QUALITY CONTROL BOARD

DATE: APR 30 1999

SUBJECT: RCRA Analogous Review - Revised Response to October 1998 Final Report

In an October 1998 report, USEPA and DTSC examined about 66 California sites overseen by Regional Boards where RCRA corrective action requirements apply. About 30 of these sites are in Region 2. Many of the Region 2 sites were "RCRA analogous"; Board oversight activities fully comply with RCRA requirements. This memo describes how we intend to address those sites where Board oversight activities are not fully "RCRA analogous". A key feature is our plan to expand public participation activities prior to final-remedy selection; this will address the bulk of the deficiencies cited in the October 1998 report. In a few cases, the cited deficiencies have been addressed or rendered inapplicable by new information. Most if not all of the remaining deficiencies will be addressed within two years. This response takes the place of my earlier February 2, 1999, response memo.

Background

Due to statutory overlap between the California Water Code and RCRA, both the Regional Boards and DTSC have jurisdiction over cleanup at a number of California sites subject to RCRA. At 66 California sites, USEPA and DTSC have deferred to the Regional Boards to implement RCRA corrective action. In two studies - the first in 1994 and the second in October 1998 - USEPA and DTSC examined Regional Board oversight activities at these sites to determine if they are RCRA analogous. In other words, do the Regional Board actions substantially comply with RCRA corrective action requirements. A total of 30 - or nearly half - of the 66 sites are in Region 2.

The October 1998 report by USEPA and DTSC (*RCRA Corrective Action Analogous Review of Facilities Deferred to the Regional Water Quality Control Boards*) concludes that many of the Regional Boards' actions at the 66 sites are RCRA analogous. This is particularly true for

federal Superfund sites for which Region 2 has provided oversight. The following Regional Boards actions are RCRA-analogous at most of the sites: requiring RFIs (remedial investigations), requiring CMSs (feasibility studies), and requiring interim cleanup measures. The report finds a number of instances of non-analogous actions, however. This is particularly the case for public participation prior to selecting a final remedy. The report contains specific recommendations for non-analogous sites. The Regional Boards are asked to either remedy the cited deficiencies or allow DTSC to take on RCRA corrective action at these sites.

With respect to the 30 sites in this region, 12 sites had no RCRA-analogous deficiencies, 12 sites were deficient only for "public participation", and 8 sites were deficient for "public participation" and at least one other factor. Other factors include: RCRA facility assessment (1), completion of RCRA facility investigation (2), completion or evaluation of interim remedial actions (4), and consideration of deed restriction (1).

Region 2 staff intend to address the RCRA-analogous deficiencies cited in the October 1998 report at all but one site - Great Western Chemical - which we recommend for DTSC oversight.. Our responses are in two categories: a general discussion of public-participation (below) and a site-specific discussion of other RCRA-analogous deficiencies (attached). For each, we indicate steps to be taken by Board staff and (where possible) an implementation schedule. In a few cases, new information has a bearing on the perceived deficiency.

Public Participation

We propose the following steps for public participation prior to selection of a final remedy at RCRA-analogous sites:

- * o Interested persons mailing list: We will develop (or ask the respective dischargers to develop) a site-specific mailing list including community-group or local environmental group representatives that have expressed interest in site investigation or remediation. This effort would build on our existing process, which develops site-specific mailing lists for all regulated sites. In several cases, RWQCB staff will attend meetings with the community conducted by the facility where representatives, such as home owners association members are present.
- o Fact sheet: We will develop (or ask the respective dischargers to develop) a fact sheet describing the proposed final remedy and relevant background information (e.g. site history, remedial investigation, interim remedial actions, regulatory process, and whom to contact for further information). The fact sheet will be distributed to interested agencies and persons (see mailing list above). This step builds on our existing process, which provides copies of draft SCRs to everyone on the mailing list. Where lengthy documents such as Waste Discharge Requirements (WDRs) are utilized, copies will be made available to the public at repositories, such as local libraries.

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- o 30-day comment period: We will provide interested agencies and persons with a 30-day period to comment on the proposed final remedy. This is similar to our existing process, which provides 3 to 4 weeks for public comment on draft SCRs and WDRs, including those that approve final remedies.
- o Legal notice: We will arrange for publication of a legal notice in a newspaper of general circulation in the site vicinity. The legal notice will describe the Board's intention to approve the proposed final remedy, the regulatory process, and opportunities for public comment. The legal notice will be published 30 days before the proposed Board action.
- o Public meeting: We will organize and conduct a public meeting in the community where the site is located in order to discuss the proposed final remedy - if requested by interested persons or if in our judgment such a meeting would be productive. We may delegate public-meeting tasks to the dischargers as appropriate. Given that most of the 18 sites are located in industrial areas, we do not expect many public-meeting requests.

The schedule for implementing these "public participation" steps will be different for each of the 18 sites. The Board typically approves a final remedy in a final SCR or WDR, which is not adopted until the discharger completes site investigation, consideration of remedial options, and a risk assessment. Since most of the sites are far along with site investigation and interim remedial actions, we expect that "public participation" steps will be completed at all but a few sites within two years. The attachment provides some site-specific information on the 18 sites. In two cases, the Board has approved a final remedy or closed the site between the time of the USEPA/DTSC review and the final report, and it would be inappropriate to encourage public participation after the fact.

Other Deficiencies

The attachment provides site-specific information on the 8 sites with RCRA-analogous deficiencies other than public participation. In most cases, we intend to take steps to address the deficiencies. The schedule for Board action is site-specific, but we expect that most deficiencies will be addressed within two years. In a few cases, we provide new information not available at the time of the USEPA/DTSC review that addresses the deficiency.

We appreciate this opportunity to address recommendations in the October 1998 report. It is to the advantage of all three agencies to avoid duplication of effort where California Water Code and RCRA authority intersect. Please contact Stephen Hill of my staff at Calnet 561-2361 (510-622-2361) if you have any questions.

Attachment

cc w/attach: SIM, RKM, SAH, AGL, CTS, AOF, CSF, DCL, MJR, ANN, TS, EAC

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Region 2 - Site Specific Responses

Anacomp aka Xidex, Sunnyvale (CAD 051612802): The report recommends "public participation" steps prior to final remedy selection; we will do so before final SCR adoption or case closure; action is likely by the 4th quarter of 1999. Contact person: George Lincoln, Region 2 at (510) 622-2381.

Ashland Chemical (CAD 066562521): The report cites uncertainty over the source of groundwater contamination, and recommends three additional actions: preparation of a RCRA facility assessment (RFA) by DTSC, completion of a RCRA facility investigation (RFI) based on RFA results, and an evaluation of the existing "pump and treat" system. Since the report was prepared, the Board has revised the site cleanup requirements (SCR) for this site (Order No. 98-080 adopted 8/19/98). Findings 2, 6 and 7 in the order clearly identify VOC sources, primarily in the tank farm and adjacent loading bay. We intend to discuss this new information with DTSC staff to see if an RFA is still needed. If so, we prefer to request the discharger prepare an RFA under Board oversight. With respect to the other cited deficiencies, the revised SCR requires Ashland to complete additional RI work (tasks 1 and 2, confirm vertical extent of groundwater pollution) and to evaluate the existing "pump and treat" system (task 3.b, evaluation of installed IRMs). The report also recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by 3rd quarter of 2000. Contact person: Ade Fagorala, Region 2 at (510) 622-2342.

Baron Blakeslee/Allied Signal, Newark (CAD 074644659): The report notes that the offsite extent of the groundwater plume is not defined, and recommends two additional actions: completion of a RCRA facility investigation (RFI) and implementation of interim remedial actions (IRMs). Since the report was prepared, the Board has revised the site cleanup requirements (SCR) for this site (Order No. 98-108 adopted 10/21/98). Finding 6 clearly indicates that the extent of soil and groundwater contamination have been adequately defined. This finding reflects recent remedial investigation work (tidal influence study and aquifer testing) approved by the Board on 1/9/98 after the USEPA/DTSC report was released. With respect to IRMs, the revised SCR requires the discharger to implement soil IRMs by 4/30/99 (tasks 1 and 2) and groundwater IRMs by 10/1/99 (tasks 3 and 4). The report also recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by 3rd quarter of 2000. Contact person: Ade Fagorala, Region 2 at (510) 622-2342.

Barnes-Hind, Sunnyvale (CAD 001938828): The report recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; action is likely by the 2nd quarter of 2001. Contact person: Cecilio Felix, Region 2 at (510) 622-2343.

Chemical Systems Division of UTC, San Jose (CAD 001705235): The report recommends "public participation" steps prior to final remedy selection. However, a final remedy for the site

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has already been approved (OU1 in Order No. 94-064 on 5/18/94 and OU2 in Order No. 98-070 on 7/15/98). The action in OU2 was taken after the second-round RCRA analogous review but before release of the final report in October 1998. Public participation steps included a site-specific mailing list, 30-day period for comments on draft SCR (distributed to full mailing list), and opportunity for public testimony at Board public hearing. We respectfully suggest that further public participation steps are not appropriate since remedy-selection has already occurred. Contact person: Cecilio Felix, Region 2 at (510) 622-2343.

Chevron Refinery, Richmond (CAD 009114919): The report recommends "public participation" steps prior to final remedy selection. The final remedy selection, consisting of a facility wide groundwater control system is nearly complete. We will provide the opportunity for public participation during an update to WDRs; adoption is likely by the 4th quarter of 1999. Contact person: Elizabeth Christian, Region 2 at (510) 622-2335.

Chevron Chemical Division, Richmond (CAD 043237486): The report identifies the risk assessment process that facility is currently conducting and recommends interim remedial actions. The report also recommends "public participation" steps prior to final remedy selection; we will do so before the final WDR is adopted; adoption is likely by the 2nd quarter of 2000. Contact person: Elizabeth Christian, Region 2 at (510) 622-2335.

Courtaulds Aerospace aka DeSoto, Berkeley (CAD 009110867): The report recommends "public participation" steps prior to final remedy selection. However, Board staff approved conditional site closure in a letter dated 5/15/98; the letter requires Courtaulds to implement a risk management plan for three years. The risk management plan adequately addresses residual VOCs during planned redevelopment of the site. We provided City of Berkeley - Toxics Management Division (TMD) staff with a draft of the closure letter and discussed their concerns about conditional closure. The site is located in an industrial area in Berkeley and, apart from TMD's interest, we are unaware of any other interested persons. We respectfully suggest that further public participation steps are not appropriate since remedy-selection has already occurred. Contact person: Derek Lee, Region 2 at (510) 622-2374.

Dow Chemical, Pittsburg (CAD 076528678): The report recommends "public participation" steps prior to final remedy selection; we will do so before WDRs are updated; adoption is likely by the 3rd quarter of 2000. Contact person: Elizabeth Christian, Region 2 at (510) 622-2335.

Great Western Chemical, Richmond (CAD 009419607): The report notes the lack of RWQCB oversight activity since 1989, and recommends that the Board either require corrective action or allow oversight by DTSC. Previous RWQCB involvement at the site concerned an NPDES permit and not site investigation or cleanup activities. This site has a low priority for Board oversight, and we would be happy to see DTSC assume oversight responsibility.

Henkel aka Parker/Amchem, Fremont (CAD 009152364): The report suggests that the Regional Board consider a deed restriction to address contamination which remains beneath an asphalt cap

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and perhaps beneath the main building. The discharger is subject to a 1991 SCR (and 1996 SCR amendment); the orders do not approve a final remedy. Board staff intend to prepare a draft final SCR that would require a deed restriction; implementation would be roughly 6 months following SCR adoption. The report also recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by 2nd quarter of 2000. Contact person: Ade Fagorala, Region 2 at (510) 622-2342.

HP Data Terminals, Sunnyvale (CAD 069130995): The report recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by the 2nd quarter of 2001. Contact person: Cecilio Felix, Region 2 at (510) 622-2343.

* Lockheed Missiles and Space, Sunnyvale (CAD 009125535): The report recognizes that a number of SWMUs have been identified and that groundwater extraction and cleanup has been active since 1991. The report suggests that more SWMUs may be present and that an RFA or equivalent documentation addressing the entire site be reviewed. The report also recommends "public participation" steps prior to final remedy selection. Preliminary indications are that previous work by Lockheed, including detailed site investigations for potential sources, is equivalent to an RFA. We will review this material over the next three months to determine if an RFA is needed, and will communicate our conclusions to DTSC. In any event, we will conduct "public participation" steps before final WDRs or SCRs are adopted; adoption is likely by 1st quarter 2000. Contact person: Alec Naugle, Region 2 at (510) 622-2510.

McKesson Chemical, Newark (CAD 073934903): The report recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by 2nd quarter of 1999. Contact person: Ade Fagorala, Region 2 at (510) 622-42.

Romic Chemical, Newark (CAD 056197601): The report recommends "public participation" steps prior to final remedy selection; we will do so before the final SCR is adopted; adoption is likely by 3rd quarter of 2000. Contact person: Ade Fagorala, Region 2 at (510) 622-42.

Shell Oil, Martinez Refinery (CAD 009164021): The report recommends a "public participation" step prior to final remedy selection. However, a final remedy for the site has already been approved in Order No. 95-234, which was adopted on December 13, 1995. The action was taken before the release of the RCRA Analogous Review Report dated October 1998. Public participation steps included a site-specific mailing list, 30-day period for comments on the draft tentative order, and an opportunity for public testimony at the Board's public hearing. We respectfully suggest that further public participation steps are not appropriate since remedy-selection has already occurred. Contact person: Terry Seward, Region 2 at (510) 622-2416.

Tosco - Avon Refinery, Martinez (CAD 000072751): The report identifies that a phase 2 RFI and Health Risk Assessment has been completed and that interim remedial actions should and are

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being conducted. The report also recommends "public participation" steps prior to final remedy selection; we will do so before WDRs are updated updating and adoption is likely by the 2nd quarter of 1999. Contact person: Terry Seward, Region 2 at (510) 622-2416.

Tosco aka Unocal Rodeo Refinery, Rodeo (CAD 009108705): The report recommends a "public participation" step prior to final remedy selection. The 1998 report recognizes that the construction of final remedies were underway. However, a final remedy for the site has already been approved in Order No. 97-027, which was adopted on February 19, 1997. The action was taken before the release of the RCRA Analogous Review Report dated October 1998. Public participation steps included a site-specific mailing list, 30-day period for comments on the draft tentative order, and an opportunity for public testimony at the Board's public hearing. We respectfully suggest that further public participation steps are not appropriate since remedy-selection has already occurred. Contact person: Terry Seward, Region 2 at (510) 622-2416.

USDOE Sandia National Lab, Livermore (CAD 890012923): The report recommends "public participation" recognizing that SCRs have been issued and cleanup work and landfill closure activities are in progress. We will conduct public participation activities prior to determination that cleanup and closure activities are complete; we expect to make this determination by 1st quarter 2000. Contact person: Mark Ruderman, Region 2 at (510) 622-2413.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail No. 70012510000359444665
Return Receipt Requested

August 12, 2003

BY FACSIMILE AND CERTIFIED MAIL

Mr. Mark C. Posson, Director
Environment, Safety & Health
Orgn. EK-10, Bldg. 157
Lockheed Martin Space Systems Company
1111 Lockheed Martin Way
Sunnyvale, CA 94089

**Re: Information Request and RCRA Facility Assessment for Lockheed Martin
Facility, Sunnyvale California**

Dear Mr. Posson:

The U.S. Environmental Protection Agency (EPA) would like to schedule a 2-day site visit and file review in August 2003 to complete a RCRA Facility Assessment (RFA) for the Lockheed Martin Space Systems Company (Lockheed Martin) facility located in Sunnyvale, California.

Booz Allen Hamilton, Inc. (Booz Allen) is currently under contract with EPA to assist in preparing the Lockheed Martin RFA. The information needed for Booz Allen to complete the RFA is included as an attachment to this letter. EPA requests that Lockheed Martin make this information available to Booz Allen at the time of the site visit. Ron Leach of this office will be contacting Allen Lund of your staff to schedule a time for the site visit.

This request is being made under the information gathering authority, Section 3007 of the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. § 6927. EPA has initiated the RFA as part of a nationwide inventory and screening of hazardous waste management sites and facilities. RFAs typically include documentation collection and review activities, a "walk-around" of the site and its immediate environs, and interviews of site representatives.

EPA streamlined the information needed from Lockheed Martin to complete the RFA

In January 2003, Ron Leach and Larry Bowerman of this office met with you and Alec Naugle of the California Regional Water Quality Control Board (RWQCB) to discuss the RFA at Lockheed Martin. In response to concerns you raised at the meeting, EPA committed to reevaluating the information needed to complete the RFA.

In developing the RFA, Booz Allen performed initial file reviews at various regulatory agency offices. To satisfy our commitment, EPA directed Booz Allen to perform a second review of the Lockheed Martin files located at the RWQCB and EPA Region 9 offices. Booz Allen also visited the Bay Area Air Quality Management District office in San Francisco. As a result of this additional data gathering effort, the information needed from Lockheed Martin to complete the RFA was streamlined down to data gaps for the Solid Waste Management Units and some air permitting questions.

The site visit will include both a site tour and a review of documents

Upon arrival at Lockheed Martin, Booz Allen representatives will take photographs and collect information about the site, which will be incorporated into the RFA. After the site tour, Booz Allen representatives will meet with Lockheed Martin representatives to review and discuss pertinent information.

Compliance with this request for information is mandatory

Please be advised that under Section 3008 of RCRA, failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 3008 of RCRA and 40 C.F.R. Part 19 provide for the assessment of a civil penalty of \$27,500 per day for each violation of RCRA. In addition, Section 3008(d) of RCRA provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under RCRA. And, 18 U.S.C. § 1001 provides criminal penalties for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation.

Nothing herein is meant to prevent or limit the United States from using any of the information provided by Lockheed Martin in any administrative, civil, or criminal proceedings.

EPA will disclose information to Booz Allen

This letter serves as notice to Lockheed Martin pursuant to 40 C.F.R. § 2.305(h) of EPA's intention to disclose to our contractor Booz Allen information pertaining to Lockheed Martin relating to any materials that Lockheed Martin has been or is generating, treating, storing, managing, disposing of, or transporting from Lockheed Martin, including the information Lockheed Martin is required to make available as part of this information request. EPA plans to disclose this information to Booz Allen under Contract Number 68-W-02-022, such disclosure being necessary for Booz Allen to carry out the inspection of the Lockheed Martin facility, including document review and copying. Pursuant to 40 C.F.R. § 2.305(h), Lockheed Martin may submit comments to EPA on its disclosure of confidential information to Booz Allen. Any comments on this contemplated disclosure to Booz Allen must be submitted to EPA **within five (5) days of your receipt of this letter**. Please submit any such comments to:

Ronald Leach, RFA Work Assignment Manager
U.S. Environmental Protection Agency, Region 9
RCRA Corrective Action Office (WST-5)
75 Hawthorne Street
San Francisco, California 94105

Lockheed Martin may claim business confidentiality

For the information that Lockheed Martin makes available in response to this request, you may assert a business confidentiality claim on behalf of Lockheed Martin covering all or part of the information that Lockheed Martin makes available. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. Part 2, especially § 2.203. To make a confidentiality claim, it will be necessary for Lockheed Martin to clearly identify the specific documents and portions of those documents that Lockheed Martin feels are entitled to confidential treatment. Be specific by page, paragraph, and sentence when identifying the information subject to Lockheed Martin's claim. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the public without further notice to Lockheed Martin. For each item or class of information that Lockheed Martin identifies as being subject to its claim, provide all of the following information:

1. For what period of time does Lockheed Martin request that the information be maintained as confidential? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information Lockheed Martin claims as confidential be protected for the time period specified in the answer to question No. 1 above?
3. What measures have you taken to protect the information claimed as confidential? Has Lockheed Martin disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Has any governmental body made a determination as to the confidentiality of the information? If so, attach a copy of the determination.
5. Is the information contained in any publicly available materials, such as promotional publications, annual reports, articles, etc.? Is there any means by which a member of the public could obtain access to the information?
6. For each category of information claimed as confidential, discuss with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the nature of those harmful effects, why they

should be viewed as substantial and the causal relationship between disclosure and such harmful effects. How could Lockheed Martin's competitors make use of this information to your detriment?

7. Does Lockheed Martin assert that the information is "voluntarily submitted?" If so, is the information the kind of information that Lockheed Martin would not customarily release to the public? Explain.
8. Any other issue Lockheed Martin deems relevant.

Lockheed Martin may also assert a business confidentiality claim regarding photographs taken by EPA's contractors and information provided orally during the site visit. If Lockheed Martin asserts such a claim, then EPA will provide Lockheed Martin with the photographs and the site visit record so that Lockheed Martin may clearly identify the items that it feels are entitled to confidential treatment and answer the above questions regarding those items.

Please note that all confidentiality claims are subject to agency verification and that Lockheed Martin bears the burden of substantiating its confidentiality claim pursuant to 40 C.F.R. § 2.208(e). Conclusory allegations will be given little or no weight. If Lockheed Martin also wishes to claim any of the information in its response to questions Nos. 1 through 8 above as confidential, Lockheed Martin must mark the response "CONFIDENTIAL" or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2.

Please submit Lockheed Martin's confidentiality claims and substantiating comments to Ronald Leach at the above address **within seven (7) calendar days of the site visit**. You may request on behalf of Lockheed Martin an extension of time to submit such claims and comments, but a request for extension must be made **within seven (7) calendar days of the site visit**, or Lockheed Martin will have waived all of its confidentiality claims, and the information obtained through this information request may be made available to the public without further notice to Lockheed Martin.

Information request not subject to Office of Management and Budget review

This request for information is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§ 3502(3), 3507, 3512, and 3518(c)(1) (see also, 5 C.F.R. §§ 1320.3(c), 1320.4, and 1320.6(a)). Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons (see, 44 U.S.C. § 3502(4) & (11); 5 C.F.R. §§ 1320.4 and 1320.6(a)).

Please feel free to invite anyone to the upcoming site visit or meeting who can provide any of the information requested by this letter. If you have any questions regarding this matter, please contact Ron Leach, EPA Region 9 RFA Work Assignment Manager, at (415) 972-3362. Thank you for your cooperation in this matter.

Sincerely,



Arlene Kabei
for Associate Director
Waste Management Division

Attachment: Information Needs Table

cc: Alec Naugle, RWQCB

Information Needs for the RCRA Facility Assessment Lockheed Martin Space Systems Company, Sunnyvale, California

✓ - Indicates the following information was provided in the file review material.

Blank boxes indicate that information on the Solid Waste Management Unit (SWMU) or Area of Concern (AOC) is needed.

SWMUs and AOCs are numbered based on the building number in which they are located.

Information Needs for SWMUs

Identified SWMUs	Dates of Operation	Description of Unit	Wastes Managed	Release Controls	Release History
SWMU 14E/041-1: Spray Paint Booths (3)					
SWMU 14E/041-2: Former Hazardous Waste Container Storage	✓	✓	✓	✓	✓
SWMU 14E/041-3: Solvent Recovery System					
SWMU 071-1: Plating Area					
SWMU 071-2: Spray Paint Booths (4)					
SWMU 076-1: Spray Paint Booth					
SWMU 076-2: Degreaser					
SWMU 102-1: Sanitary Wastewater Collection System					✓
SWMU 103-1: Plating Area					✓
SWMU 103-2: Degreasers (4)					
SWMU 103-3: Plating Waste Tanks (WT103-2) (WT103-3) (WT103-4)					✓
SWMU 113-1: Degreasers (4)					
SWMU 113-2: Neutralization Unit			✓	✓	✓
SWMU 114-1: Andco Treatment Unit	✓	✓	✓	✓	
SWMU 114-2: Clarifier/Sludge Thickening Unit/Filter Press	✓	✓	✓	✓	
SWMU 114-3: Former HMPU	✓	✓	✓	✓	

Identified SWMUs	Dates of Operation	Description of Unit	Wastes Managed	Release Controls	Release History
SWMU 114-4: Cyanide Destruction Unit	✓				✓
SWMU 114-5: Hazardous Waste Container Storage Area					
SWMU 130-1: Degreaser					
SWMU 132-1: Solvent Waste Drum					
SWMU 136-1: Spray Paint Booth					
SWMU 138-1: Vehicle Maintenance Facility			✓		✓
SWMU 140-1: Spray Paint Booth					
SWMU 141-1: Spray Paint Booth					
SWMU 142-1: Sanitary Sewer Catch Basin					✓
SWMU 150-1: Plating Area					
SWMU 150-2: Spray Paint Booth					
SWMU 150-3: Degreaser					
SWMU 151-1: Plating Area					
SWMU 151-2: Spray Paint Booths (7)					
SWMU 151-3: Degreasers (11)					
SWMU 151-4: Methylene Chloride Still					
SWMU 151-5: Waste Chemical Storage					✓
SWMU 151-6: Former Waste Diversion System	✓				
SWMU 151-7: Former Copper Pretreatment Facility					
SWMU 152-1: Spray Paint Booths (2)					
SWMU 152-2: Hoist Sump					
SWMU 153-1: Plating Area					

Identified SWMUs	Dates of Operation	Description of Unit	Wastes Managed	Release Controls	Release History
SWMU 153-2: Spray Paint Booths (5)					
SWMU 153-3: Degreasers (7)					
SWMU 153A-1: Spray Paint Booth					
SWMU 155-1: Spray Paint Booth					
SWMU 159-1: Spray Paint Booth					
SWMU 159C-1: Spray Paint Booth					
SWMU 166-1: Former Automotive Service Station					
SWMU 170-1: Plating Area		✓			
SWMU 170-2: Spray Paint Booths (4)					
SWMU 170-3: Degreasers (2)					
SWMU 170-4: Waste Beryllium Tank	✓		✓	✓	✓
SWMU 170-5: Baghouse Dust Area	✓		✓		✓
SWMU 170-6: Process Clarifiers (2) & Underground Sumps (2)	✓	✓	✓		✓
SWMU 170-7: Storm Ditch 002	✓	✓		✓	✓
SWMU 170-8: Waste Machinery Oil Tank	✓	✓	✓		
SWMU 171-1: Incinerator			✓		
SWMU 174-1: Spray Paint Booths (6)					
SWMU 179-1: Metal Wastewater Sump		✓	✓		
SWMU 179-2: Former Cyanide Destruction Unit	✓	✓	✓		
SWMU 181-1: Spray Paint Booth					
SWMU 181-2: Silver Retention Sump		✓			✓
SWMU 182-1: Plating Area					
SWMU 182-2: Spray Paint Booths (8)					

Identified SWMUs	Dates of Operation	Description of Unit	Wastes Managed	Release Controls	Release History
SWMU 182-3: Degreasers (5)		✓	✓		✓
SWMU 182-4: Plating Waste Tank					
SWMU 182-5: Former Air Scrubbers					
SWMU 182-6: Floor Grating					
SWMU 182-7: Former Boiler Room Sump					
SWMU 182-8: Former Wastewater USTs (3)					
SWMU 182-9: Acid Retention Sump		✓	✓		✓
SWMU 182-10: Metal Process Waste Sumps (3)					✓
SWMU 182-11: Waste UST					
SWMU 183-1: Degreaser					
SWMU 187-1: Waste Coolant Oil LUST	✓	✓	✓		✓
SWMU 188-1: Spray Booth					
SWMU 195B-1: Spray Booth					
SWMU 195B-2: Degreaser					
SWMU 562-1: Degreaser					
SWMU 562-2: Wastewater Treatment System		✓			✓
SWMU Evaporation. Ponds	✓	✓	✓	✓	✓
SWMU Holding Ponds	✓	✓			

Information Needs for Areas of Concern

Identified AOCs	Dates of Operation	Description of Unit	Wastes Managed	Release Controls	Release History
AOC 14E-1: Waste Oil Sump/Underground Waste Oil Tank		✓		✓	
AOC 071-1: Solvent Cleaning Operations (5)					
AOC 071-2: Solvent Storage Tanks (2)					
AOC 104-1: Soil Contamination Area 1		✓		✓	✓
AOC 104-2: Soil Contamination Area 2		✓		✓	
AOC 109-1: USTs		✓	✓	✓	✓
AOC 186-1: Leaded Gas UST	✓	✓	✓	✓	✓
AOC 001: Storm Ditch 001					

Information Needs for Air Emission Sources

Please provide information on air emission sources pertinent to process vents, hazardous waste tanks and containers (i.e., Title 40, Parts 264/265, Subparts AA, BB and CC).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail No. 70012510000359444665
Return Receipt Requested

August 12, 2003

BY FACSIMILE AND CERTIFIED MAIL

Mr. Mark C. Posson, Director
Environment, Safety & Health
Orgn. EK-10, Bldg. 157
Lockheed Martin Space Systems Company
1111 Lockheed Martin Way
Sunnyvale, CA 94089

**Re: Information Request and RCRA Facility Assessment for Lockheed Martin
Facility, Sunnyvale California**

Dear Mr. Posson:

The U.S. Environmental Protection Agency (EPA) would like to schedule a 2-day site visit and file review in August 2003 to complete a RCRA Facility Assessment (RFA) for the Lockheed Martin Space Systems Company (Lockheed Martin) facility located in Sunnyvale, California.

Booz Allen Hamilton, Inc. (Booz Allen) is currently under contract with EPA to assist in preparing the Lockheed Martin RFA. The information needed for Booz Allen to complete the RFA is included as an attachment to this letter. EPA requests that Lockheed Martin make this information available to Booz Allen at the time of the site visit. Ron Leach of this office will be contacting Allen Lund of your staff to schedule a time for the site visit.

This request is being made under the information gathering authority, Section 3007 of the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. § 6927. EPA has initiated the RFA as part of a nationwide inventory and screening of hazardous waste management sites and facilities. RFAs typically include documentation collection and review activities, a "walk-around" of the site and its immediate environs, and interviews of site representatives.

EPA streamlined the information needed from Lockheed Martin to complete the RFA

In January 2003, Ron Leach and Larry Bowerman of this office met with you and Alec Naugle of the California Regional Water Quality Control Board (RWQCB) to discuss the RFA at Lockheed Martin. In response to concerns you raised at the meeting, EPA committed to reevaluating the information needed to complete the RFA.

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4/15/03
M. J. L. M. A. K.